HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.36737 of 1998

Dated 24th Day of April, 2007

Between:

B. Rama Gopal Reddy
and two others ..
Petitioners

And

The District Collector, Anantapur
and two others ..
Respondents

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O R D E R:

This writ petition is filed seeking a mandamus to declare the Notification under Section 4(1) of the Land Acquisition Act issued by the 1st respondent by way of publication in Eenadu Telugu Daily, Ananthapur Edition dated 15.12.1998 proposing to acquire the petitioners' land of an extent of Ac.1.50 cents in S.No.33 situated in Penukonda Revenue village, as arbitrary and illegal.

The petitioners assert that they own Ac.7.26 cents of land in S.No.33 situated in Konapuram village, Penukonda Mandal, Ananthapur District. Earlier, the respondents-authorities had already acquired Ac.1.84 cents vide Award No.9/97-98 dated 14.5.1997 issued by the 2nd respondent-Revenue Divisional Officer and now, the petitioners are left with only Ac.7.26 cents. The petitioners' grievance is that the 1st respondent, without ordering any tom-tom in the village, issued the impugned Notification proposing to acquire Ac.1.50 cents of land, which is subjected to repeated acquisitions.

In the counter affidavit the facts are not disputed, but what is stated in it is that the land in question is required for providing house-sites to weaker sections, and thus, it necessitated the respondents-authorities to acquire the land.

Heard the learned counsel for both the parties.

This Court as well as the Apex Court deprecated the practice of acquiring lands only from one individual for the purpose of providing

house-sites or any other public purpose. No doubt, it is the avowed policy of the Government to provide houses or house plots to weaker sections and it is always open for the Government to acquire any land when it is required for public purpose, but it does not mean that under the guise of public purpose or providing houses or house plots to weaker sections, the owners of the lands can be made houseless poor. In the instant case, already Ac.1.84 cents had been acquired and thus the petitioners are left with only Ac.7.26 cents, and if this land is divided among the petitioners, who belong to one family, not even Ac.2.50 cents fall towards each share. Further, according to the petitioners, an extent of 360 square yards was given free of cost for the purpose of construction of Elementary School and another 145 square yards for the purpose of digging a bore well and another 200 square yards for construction of another school building. All this clearly indicates that the petitioners have charitable nature, and hence, the impugned notification proposing to acquire a further extent of Ac.1.50 cents of land is liable to be quashed.

In the result, the writ petition is allowed and the impugned Notification dated 15.12.1998 is hereby set aside. No costs.

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24.04.2007

bcj